

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3972 OF 2018

Nagnath Manohar Piske

..... Petitioner

VERSUS

The State of Maharashtra & Ors.

..... Respondents

Mr.Nagraj S.Shinde for the Petitioner.

Mr.S.H.Kankal, A.G.P. for the State – Respondent nos. 1, 3 to 5.

CORAM : R.D. DHANUKA, J.

DATE : 4th MAY, 2018

P.C.

Learned counsel appearing for the petitioner states that all the respondents are served. Statement is accepted.

2. Mr.Kankal, learned A.G.P. waives service for the respondent nos. 1, 3 to 5. Except respondent nos. 1, 3 to 5, all respondents are absent.

3. By this petition, the petitioner has impugned the order dated 30th April, 2016 passed by the respondent no.4 and also the order dated 3rd March,2018 passed by the respondent no.3. The petitioner was disqualified under section 14B of the Maharashtra Village Panchayat Act, 1958 on the ground that the petitioner had failed to file statement of election expenses within the time prescribed. It is the case of the petitioner that the petitioner had already submitted a statement of the election expenses on 30th November,2015 which was within the time

prescribed from the date of holding election as a member of the Village Panchayat. The said statement was however submitted on a plain paper. It is the case of the petitioner that the petitioner once again submitted the statement of election expenses on 2nd January, 2016 in the Office of the learned Tahsildar. An affidavit dated 11th December, 2015 was also prepared in this regard and submitted.

4. Both the parties however proceeded on the premise that the petitioner has not filed the statement of election expenses within the time prescribed under the provisions of the Maharashtra Village Panchayat Act, 1958.

5. Mr. Kankal, learned A.G.P. for the respondent nos. 1, 3 to 5 states that the petitioner did not file statement of election expenses within the time prescribed and also did not apply for condonation of delay in filing the statement of election expenses before the authority and thus the impugned order passed by the authority cannot be impugned by this court in this writ petition.

6. The documents produced before this court for consideration across the bar indicates that the petitioner has alleged to have submitted the statement of election expenses on 30th November, 2015, however on a plain paper. The petitioner also claims to have been submitted the statement of election expenses on 2nd January, 2016 which is annexed at page 19 to the petition. The petitioner also appears to have prepared an affidavit dated 11th December, 2015 to this effect.

7. In these circumstances, I am of the view that the petitioner shall be given an opportunity to produce the additional documents produced before this court and if necessary to make an application for condonation of delay in filing statement of election expenses under section 14B(2) of the Maharashtra Village Panchayat Act, 1958.

8. I, therefore, pass the following order :-

(a) The impugned order dated 30th April, 2016 passed by the respondent no.4 and also the order dated 3rd March, 2018 passed by the respondent no.3 are quashed and set aside.

(b) The petitioner would be at liberty to produce the documents dated 30th November, 2015 allegedly submitted before the learned Tahsildar showing filing of the statement of election expenses. The petitioner would also be at liberty to produce other documents annexed to the petition in support of the case of the petitioner that the statement of election expenses was already filed within the time prescribed under the provisions of Maharashtra Village Panchayat Act, 1958 or in the alternate to make an application for condonation of delay under section 14B(2) of the Maharashtra Village Panchayat Act, 1958.

(c) The respondent no.4 is directed to reconsider the case of the petitioner and the

documents proposed to be produced by the petitioner along with an application for condonation of delay if necessary and shall pass a fresh order after considering the documents, after hearing the petitioner and after considering the provisions of section 14B(2) of the Maharashtra Village Panchayat Act, 1958.

(d) In view of the aforesaid order, the respondent no.2, 5 and 6 shall not conduct the election for the post held by the petitioner proposed to be held on 7th May,2018.

(e) The learned collector shall pass a fresh order within eight weeks from the date of hearing.

(f) The petitioner is directed to appear before the learned District Collector, Solapur on 11th June,2018 at 11.00 a.m.

(g) The petitioner is directed to convey this order to the other respondents immediately.

9. Writ petition is disposed of in the aforesaid terms. No order as to costs.

10. The parties as well as the authorities to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]